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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Larry James Washington

Petitioner

v.

Jerry Howell, et al.

Respondents

Case No.: 2:17-cv-01589-JAD-NJK

**Order Denying Motion to Dismiss**

[ECF No. 9]

Adjudicated habitual criminal and pro se petitioner Larry James Washington is an inmate at the Southern Desert Correctional Center who is serving two life sentences for second-degree kidnapping while using a deadly weapon and assault with a deadly weapon.<sup>1</sup> He petitions for a writ of habeas corpus under 28 U.S.C. § 2254,<sup>2</sup> and respondents move to dismiss it.<sup>3</sup>

When respondents filed their dismissal motion, Washington's direct appeal was still pending in the Nevada Supreme Court, so respondents argued that Washington's habeas claims were unexhausted.<sup>4</sup> I have reviewed the Nevada Supreme Court's online Appellate Case Management System, and it appears that Washington's judgment of conviction was affirmed on July 20, 2018. This new development renders moot most—if not all—of respondents' dismissal arguments. So, I deny the motion without prejudice to respondents' ability to file a new dismissal motion on the same or different grounds, taking into account the Nevada Supreme Court's recent ruling. Respondents may also file an answer in lieu of another dismissal motion.

Accordingly, IT IS HEREBY ORDERED that Respondents' motion to dismiss **[ECF No. 9]** is **DENIED as moot** and without prejudice to their ability to file another dismissal motion.

<sup>1</sup> NEV. DEP'T OF CORR. (July 30, 2018) <https://doc.nv.gov/Inmates/Home/> (inmate search by name Larry Washington or offender ID 24573).

<sup>2</sup> ECF No. 6.

<sup>3</sup> ECF No. 9.

<sup>4</sup> *Id.*

1 IT IS FURTHER ORDERED that, **Respondents have until September 28, 2018, to**  
2 **respond to Washington’s petition by filing an answer or another dismissal motion.** If  
3 Respondents choose to file an answer, Washington will have **60 days from the date of service**  
4 of that answer to file a reply. And if Respondents choose to file another dismissal motion,  
5 Washington will have **60 days from the date of service** of that motion to file a response to it.  
6 Respondents will then have **30 days from the date of service** of Washington’s dismissal-motion  
7 response to file a reply.

8 Finally, under the Federal Rules of Civil Procedure 25(d), the **Clerk of Court** is directed  
9 to **SUBSTITUTE Jerry Howell for Jo Gentry**—as the respondent warden—on the docket for  
10 this case.

11 Dated: July 30, 2018

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14 U.S. District Judge Jennifer A. Dorsey  
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